



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Acting Chairman Nancy A. Nord
 Commissioner Thomas H. Moore

ITEM:

Draft Denial Letter for Petition HP 06-2; Mini-Sparkler Packaging Exemption
(Briefing package dated January 10, 2007, OS No. 5644)

DECISION:

The Commission voted unanimously (2-0) to approve the denial letter, as drafted, of the Petition HP 06-2, requesting that the Commission initiate rulemaking under the Federal Hazardous Substances Act (FHSA) to exempt mini sparkler tubes from the requirement in 16 C.F.R. § 1500.14, that sparklers be labeled, "For Outdoor Use Only." The Commission voted to deny the petition and directed the staff to draft a letter informing the petitioner. The petitioner is Ms. Becky Hall of Octavious Hunt Limited of Bristol, United Kingdom.

For the Commission:

A handwritten signature in black ink, appearing to read "T A Stevenson", written over a horizontal line.

Todd A. Stevenson
Secretary

* Ballot vote due January 12, 2007



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Todd A. Stevenson
Secretary
Office of the Secretary

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January 16, 2007

Ms. Becky Hall
Octavius Hunt Limited
Dove Lane
Redfield
Bristol
BS5 9NQ

Dear Ms. Hall:

The Commission has considered your petition, HP 06-2, requesting an exemption for mini sparkler packaging from a single line of the U.S. labeling requirement for sparklers in 16 C.F.R. 1500.14 that states, "For Outdoor Use Only." The Commission considered the information you provided; a comment on the petition by an interested person; and a package of written materials prepared by the staff, a copy of which was provided to you. Based on its review of these materials, and for the reasons discussed below, the Commission voted unanimously to deny the petition.

The relevant authority for exempting mini sparklers from the labeling requirement is section 3(c) of the Federal Hazardous Substances Act (FHSA). This section provides:

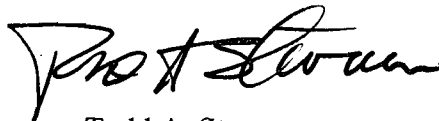
If the Secretary finds out, because of the size of the package involved or because of the minor hazard presented by the substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under this Act is impracticable or is not necessary for the adequate protection of the public health and safety, the Secretary shall promulgate regulations exempting such substance from these requirements to the extent he determines to be consistent with adequate protection of the public health and safety.

15 U.S.C. 1262(c). Thus, in order to grant an exemption from the labeling requirement to Octavius Hunt Limited's mini sparklers, the Commission would have to find that labeling is not necessary for the adequate protection of public health and safety or that the hazard the mini sparkler presents is a "minor hazard."

While the information you provided demonstrates that mini sparklers sold by Octavius Hunt Limited conform to the British Standard for fireworks (BS 7114 Part 2:1988), it does not address the Commission's long-standing concern that sparklers, should they come into contact with indoor items such as furniture, carpeting or clothing, may ignite these items and start a fire. The briefing package includes data and information regarding injuries related to the use of outdoor sparklers. Outdoor sparklers are used in similar ways and burn at similar high temperatures as indoor sparklers. Moreover, a human factors analysis indicates that indoor sparklers are likely to produce similar mishaps as outdoor sparklers. Users may reflexively drop a sparkler if they unexpectedly touch a hot spot. Children may accidentally drop a sparkler because they find the heat uncomfortable, or may purposely put it down without foreseeing any consequences of placing a burning sparkler on furniture, clothing or carpeting. Thus, the same accident scenarios that occur outside with sparklers will likely occur inside, but with an additional increased risk for house fires and property damage.

Due to the record of injuries associated with outdoor sparklers, the likelihood that indoor sparklers will produce similar mishaps as outdoor sparklers, and the expected increased risk of burns and residential fires associated with sparklers used indoors, the Commission cannot find that use of a mini sparkler indoors constitutes a "minor hazard" as defined by section 3(c) of the FHSA. Therefore, the Commission finds that an exemption from current labeling requirements is unwarranted.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd A. Stevenson". The signature is fluid and cursive, with the first name "Todd" being more prominent and stylized.

Todd A. Stevenson
Secretary